
Legal Alert

Electronic Document & Electronic Signature Act

Bulgaria

11 January 2011

Latest Amendments



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The Act for Amendment to the Electronic Document and Electronic Signature Act was published in issue 100 of the State Gazette, dated 21 December 2010.

The purpose of the amendments is to make the Bulgarian Electronic Document and Electronic Signature Act (the "Act") fully compliant with the requirements of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (the "Directive"), as amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008. Amendments to the Act are made also in reply to the reports of the European Commission about inconsistencies of the Bulgarian legislation with the Community regulatory framework in the field of electronic signatures.

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The latest amendments to the Bulgarian Electronic Document and Electronic Signature Act, which will enter into force on 1 July 2011, could be summarised as follows:

1. Qualified Electronic Signature

Effective as of 1 July 2011 the term "qualified electronic signature" will replace the term "universal electronic signature". The regime of this electronic signature is amended to fully correspond to the regime of the advanced electronic signature based on qualified certificate, as per Art. 5, item 1 of the Directive.

The amendments include a legal definition of the term "qualified electronic signature" and an exhaustive list of the requirements that need to be met by a certificate of a qualified electronic signature. The requirements, provided by the expiring legal regime, substantially deviated from the established standards, thus affecting the compatibility of the Bulgarian systems upon use of electronic signatures.

The qualified electronic signature, like the universal electronic signature, will have the legal effect of a handwritten signature vis-à-vis everybody.

2. Simple and Advanced Electronic Signatures

The requirements applicable to simple and advanced electronic signatures will be amended to comply with the provisions of the Directive.

As a result, after the entry into force of the new regime the simple and the advanced electronic signatures may be recognised as handwritten signatures, only provided the parties have expressly so agreed.

3. Certification-service-providers

Subject to the amendments is also the registration regime of the certification-service-providers. As of 1 July 2011 the certification-service-providers will be accredited by the Executive Agency "Bulgarian Accreditation Service". This amendment aims to comply with the requirement of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products for a single national accreditation body in each EU Member State.

However, the Communications Regulation Commission will remain the supervising authority vis-à-vis certification-service-providers as regards reliability and security of the certification services.

Amongst the other amendments, according to the new regime, the certification-service-providers will be assigned public functions.

4. Recognition of certificates, issued by certification-service-providers established in foreign countries

According to the expiring regime certificates, issued by certification-service-providers established in foreign countries were recognised subject to compliance with certain conditions, specified in the Act. Under the new regime the conditional recognition will continue to apply only to certificates for qualified electronic signatures, issued by certification-service-providers established in countries outside the EU or EEC.

As regards certification-service-providers, established in Member States of the EU or EEC, their certificates for qualified electronic signature will be recognised ex lege as having legal force and effect equal to the certificates issued by a Bulgarian certification-service-provider.

5. Confirmation of the receipt of an electronic statement

In compliance with the provisions of the Model Law on Electronic Signatures of UNCITRAL, under the latest amendments to the Act, the requirement for confirmation of the receipt of an electronic statement will be repealed. As of 1 July 2011 a confirmation of receipt will not be necessary in order to consider that an electronic statement has been received by the addressee, unless the parties expressly agree otherwise.

6. The expiring advanced and universal electronic signatures

After 1 July 2011, all certificates for advanced and universal electronic signatures, issued before 1 July 2011, will be recognised as having equal legal force and effect as the certificates for qualified electronic signature under the amended Act.

For additional information or assistance in connection with the aforesaid, please do not hesitate to contact us.

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